



Entered on Docket
September 19, 2007

A handwritten signature in black ink, appearing to read "Bruce A. Markell".

Hon. Bruce A. Markell
United States Bankruptcy Judge

AUGUST B. LANDIS, Assistant United States Trustee
State Bar # IA PK9228
augie.landis@usdoj.gov
UNITED STATES DEPARTMENT OF JUSTICE
Office of the United States Trustee
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Las Vegas, Nevada 89101
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Attorneys for the Acting United States Trustee
SARA L. KISTLER

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company
06-10725 -- Lead Case

USA Capital Realty Advisors, LLC
06-10726

USA Capital Diversified Trust Deed Fund, LLC
06-10727

USA Capital First Trust Deed Fund, LLC
06-10728

USA Securities, LLC
06-10729

Debtors

Jointly Administered

Chapter 11 Cases

Judge **Linda B. Riegle** Presiding

Date:

Time:

Place: Courtroom # 1

Affecting:

☐ All Cases

or Only:

☒ USA Commercial Mortgage Company

☐ USA Capital Realty Advisors, LLC

☐ USA Capital Diversified Trust Deed Fund, LLC

☐ USA Capital First Trust Deed Fund, LLC

☐ USA Securities, LLC

**ORDER ON FINAL APPLICATION OF KIRKPATRICK & LOCKHART PRESTON
GATES ELLIS LLP FOR ALLOWANCE OF ATTORNEYS' FEES AND
REIMBURSEMENT AS ORDINARY COURSE BUSINESS COUNSEL FOR THE
PERIOD DECEMBER 1, 2006 THROUGH FEBRUARY 28, 2007**

On June 22, 2007, this matter came on for hearing pursuant to the Final Application of Kirkpatrick & Lockhart Preston Gates Ellis LLP for Allowance of Attorneys' Fees and Reimbursement and Ordinary Course Business Counsel for the Period December 1, 2006 through February 28, 2007 [DE #3551], and the United States Trustee's opposition to that application [DE # 3898]. The Court is satisfied that sufficient notice of the application, the United States Trustee's opposition, and the related hearing was provided.

Kirkpatrick & Lockhart Preston Gates Ellis LLP did not appear at the hearing. Assistant United States Trustee August B. Landis appeared on behalf of the United States Trustee. Other appearances were noted on the record.

The Court has reviewed and considered the application, the United States Trustee's opposition, and the arguments of counsel made at the June 22, 2007 hearing. Pursuant to 11 U.S.C. § 330(a), and the Court's findings of fact and conclusions of law made on the record during the June 22, 2007 hearing in accordance with FED. R. BANKR. P. 9016(c) and 7052:

IT IS ORDERED that the United States Trustee's opposition to the application is **SUSTAINED**, reducing the award requested in the application by **\$1,381.37**.

IT IS FURTHER ORDERED that, for the reasons stated on the record at the June 22, 2007 hearing, the fees attendant to the applicant's conflict checks are limited to 1 hour of professional time at a \$425 hourly rate, and 1 hour of paraprofessional time at a \$150 hourly rate, reducing the award requested in the application by **\$937.50**.¹

¹Specifically, attorney E. Moser's time on 12/5/06 (.8) and 12/7/06 (.2) is allowed. Paralegal V. Wilson's time on 12/7/06 (1.0) is allowed. Time disallowed is as follows:

V. Wilson:	Time entered on 12/5/06 (.5) and 12/8/06 (.6) = 1.1 hours @ \$150/hr. = \$165.00
B.R. Forbes:	Time entered on 12/6/06 = 1.5 hours @ \$390/hr. = \$585.00
J. Rich:	Time entered on 12/8/06 = .3 hours @ \$625/hr. = \$187.50

1 **IT IS FURTHER ORDERED** that the application is **GRANTED IN PART and**
2 **DENIED IN PART**, with the compensation and reimbursement requested in the application
3 being approved only to the extent provided in this order, in the total amount of **\$20,211.82**
4 (\$22,530.69 applied for - \$2,318.87 reductions per this order = \$20,211.82).

5
6 **Submitted by:**

7 **SARA L. KISTLER**
8 **ACTING UNITED STATES TRUSTEE**
9 **REGION 17**

10 By: /s/ August B. Landis
11 August B. Landis
12 Assistant United States Trustee
13 Las Vegas, Nevada

14 **Approved/Disapproved**

15 **ORRICK, HERRINGTON &**
16 **SUTCLIFFE, LLP**

17 By: _____
18 Marc A. Levinson
19 Jeffery D. Hermann

20 **Approved/Disapproved**

21 **RAY QUINNEY & NEBEKER, P.C.**

22 By: _____
23 Annette Jarvis
24 Steven Strong

25 **-AND-**

26 **-AND-**

27 **Approved / Disapproved:**
28 **BECKLEY SINGLETON, CHARTERED**

29 **Approved / Disapproved:**
30 **SCHWARTZER & McPHERSON LAW**
31 **FIRM**

32 By: _____
33 Anne M. Loraditch

34 By: _____
35 Lenard E. Schwartzer
36 Jeanette McPherson

37 *Attorneys for the Official Committee of*
38 *Equity Security Holders of USA Capital*
39 *Diversified Trust Deed Fund, LLC*

40 *Attorneys for Debtors and Debtors-in*
41 *Possession*

1 **Approved/Disapproved**

2 **STUTMAN TRIESTER & GLATT, P.C.**

3
4 By: _____
5 Frank A. Merola
6 Eve Karasik

7 **-AND-**

8 **Approved / Disapproved:**

9 **SHEA & CARLYON, LTD.**

10
11 By: _____
12 Candace C. Carlyon
13 Shlomo Sherman

14 *Attorneys for the Official Committee of
Equity Security Holders of USA Capital
First Trust Deed Fund, LLC*

Approved/~~Disapproved~~

LEWIS AND ROCA, LLP

By: / s / Rob Charles
Susan M. Freeman
Rob Charles

*Attorneys for the Official Committee of
Unsecured Creditors of USA Commercial
Mortgage Company*

Approved/Disapproved

GORDON & SILVER, LTD.

By: _____
Gregory E. Garman

*Attorneys for the Official Committee of
Executory Contract Holders of USA
Commercial Mortgage Company*

RULE 9021 DECLARATION

In accordance with Local Rule 9021, the undersigned certifies that on August 31, 2007:

☐ The Court waived the requirements of Local Rule 9021.

☒ A copy of this proposed order was delivered to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection, and they have:

☒ Approved the form of this order

☐ Waived signature in open court; and/or

☒ Failed to file and serve papers in accordance with Local Rule 9021(c).

☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection, and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with Local Rule 9021(c), and the following have disapproved the order:

☐ No opposition was filed in response to the motion, and no other party or counsel appeared at the hearing.

Dated: September 17, 2007

**SARA L. KISTLER
ACTING UNITED STATES TRUSTEE
REGION 17**

By: /s/ August B. Landis
August B. Landis
Assistant United States Trustee
Las Vegas, Nevada

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